

**STATEMENT OF SENATOR SAM BROWNBACK**  
**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**  
**LOCAL COMPETITION**  
**MAY 22, 2002**

Before I focus on the issue at hand, I would like to take a moment to focus on a timely issue. The Federal Communications Commission is scheduled to accept up-front payments for auction participants in the 700 megahertz auction in only 6 days, and this Committee has yet to address the issue.

Currently there is a question as to whether this auction should proceed as scheduled, or be delayed in part or entirely. The House of Representatives has unanimously endorsed delaying the entire auction. Senator Stevens has introduced legislation in the Senate to require the auction to proceed as scheduled. Senators Ensign and Kerry have introduced an auction delay bill, which has strong bipartisan support.

Kansas is as rural a state as any, and more than most. Kansas is fortunate in that it has many small telecom companies providing my constituents with needed services. I am as interested as anyone in ensuring my constituents have the opportunity to gain access to much-needed spectrum for the first time in years.

However, I cannot support the position that, in order to address the needs of rural interests in my state, this auction should move forward *as scheduled*. This only ensures that, while rural interests are served, the *national interest* is ignored. Auctioning off the larger geographical licenses included in the upper and lower 700 MHz band only achieves one clear outcome: it ensures we cannot rely on this band in our efforts to identify and allocate spectrum specifically for third generation wireless services, and to do so with the maximum flexibility such an endeavor requires. Failing to Reserve the majority of the spectrum contained in the 700 megahertz auction until we have identified not only a long-term spectrum management policy, but specifically a 3G policy, is short-sighted.

It is my understanding that Senators Ensign and Kerry have reached out to those who favor moving forward with this auction in an effort to reach common ground. This compromise effort B auctioning the c-block licenses, the 734 RSA and MSA licenses contained in the lower 700 megahertz band, as well as possibly the unencumbered e-block licenses B seems to be a very fair and reasonable compromise.

Rural interests will be met, as will the national interest. I cannot understand the merit of opposing such a compromise B a win-win for rural and national interests B simply because it may require a short administrative delay of a few months. Given the historic battles over rural and urban interests in telecom policy, and the challenges we will face in carving out a rural niche in spectrum management reform policy, rural opposition to this reasonable compromise is not helpful.

As a Member of the telecom farm team, I strongly endorse the efforts of Senators Ensign and Kerry in this regard.

I urge the Chairman to convene the Committee in executive session so that we may address this issue. It really does not matter which bill is brought up for a vote, as long as a bill is brought up and amendments can be offered. Let the votes fall where they may, and let the Committee speak on this issue. The underlying legislation that requires us to address this issue C the Balanced Budget Act of 1997 C represents startlingly bad spectrum management policy. Failure by this Committee to take action on this issue is even worse.

The question the Committee is convened to address today is how to ensure the ubiquitous deployment of broadband services. There are no easy answers, yet there are plenty of bills flying around that seek to provide them.

The Chairman has previously introduced legislation that seeks to spur broadband deployment by further regulating Bell Operating Companies through structural separation. Soon thereafter, the Chairman introduced legislation that, instead of regulating telecom companies, regulated everyone else. This was supposed to address the Areal@ culprit in the lack of broadband deployment: weak consumer demand.

Now the Chairman has introduced yet another broadband bill, and apparently a fourth is on the way. This new bill seeks to re-purpose the telephone excise tax to subsidize broadband deployment. Originally implemented as a luxury tax on nascent telephone service to help pay for the Spanish-American war, it was only a short time ago that we came close to repealing this regressive tax. The telephone excise tax has no purpose for existing, save to pour additional tax dollars into the treasury. Re-purposing a tax that should no longer exist simply because it continues to exist and now serves a political interest B namely, stemming the rising tide of pro-deregulation sentiment in the Senate B does not make for sound policy.

Now, I have never said that subsidies cannot play a role in creating ubiquitous broadband deployment. Nor have I said that about technology neutral tax incentives. There are often calls made for a national broadband policy, and these tools in addition to deregulation can serve valuable purposes to this end.

But it is important we keep in mind that broadband is not an entirely new construct. Today=s broadband services are largely just network upgrades - a service that utilizes the existing network in combination with some new investments. That=s why I strongly endorse deregulation as the primary means of increasing deployment, and not simply throwing up our hands and making calls for universal service or other such subsidies.

I have never put forward legislation that simply deregulates the entire existing telephone network, but instead seeks to carve-out from equal access regulations those *additions* to the network that make broadband possible over largely existing facilities B facilities competitors

should continue to have access too under section 251 of the Communications Act. I have also made a special point of carving out so-called next-generation facilities -- like those identified in the Rockefeller tax incentive bill, but in a technology neutral way -- that, if deployed in a widespread manner, will reveal today's broadband services as mere dial-up upgrades, not the high-speed, high-bandwidth service broadband is supposed to be.

Now Senators Breaux and Nickles have introduced the Broadband Regulatory Parity Act of 2002, which directs the FCC to create parity among our competing broadband platforms: phone, cable, satellite, and wireless. I commend my colleagues for their efforts, and I am pleased to cosponsor their legislation. If the Senate cannot resolve itself to identify the proper course to navigate between competitors *within* the local telephone network, and in competing *platforms*, then perhaps the Commission is the best place for such a path to be identified.